REMARKS

Claims 35-41 are currently pending in the application. The status of the claims based on this reply is as follows:

claims 35, 37, 38, 40, and 41 have been amended;

no claims have been canceled;

no claims have been added; and

no claims have been withdrawn.

Claims 35-41 have been rejected under 35 U.S.C. §103 as being unpatentable over Applicant's Admitted Prior Art (hereinafter referred to as "the AAPA") in view of U.S. Patent No. 6,209,092 to Linnartz (hereinafter referred to as "the '092 patent").

Independent claim 35 is directed to a method of recording digital data onto a medium using a copy mark and additional information. The method comprises the steps of: (a) detecting from digital data any additional information that may be electronically embedded in the digital data, the additional information being 2-bit digital data, and the detecting not including detecting the presence or absence of a copy mark, (b) if the additional information is detected, performing access control for the digital data using the additional information, the access control being either to stop copying of the digital data or to allow copying of the digital to proceed, and for all combinations of the 2-bit digital data pursuant to which copying of the digital data is allowed to proceed, not making any assessment of whether a copy mark is also present in the digital data and embedding a copy mark into the digital data, (c) scrambling the digital data together with the additional information and the copy mark, and (d) recording the scrambled digital data, additional information, and copy mark onto a writable medium so as to control subsequent copying or playback of the digital data recorded on the writable medium by way of the scrambling and the additional information.

The AAPA relied upon in the Action is page 2, line 14-33, of the specification. The AAPA concerns the detection of additional information and copy mark information embedded in digital data and, in accordance with the information, the performance of a variety of predetermined controls with respect to the video recorder 120 and a playback machine (player) 130. With respect to a recording operation, the AAPA (page 2, lines 22-34) discloses the

detection of a 2-bit code and the detection of the absence or presence of a copy mark as being required to determine whether a stream should be passed or stopped for certain 2-bit code combinations. In contrast, claim 35 requires the detecting of digital information in the form of a 2-bit digital data, with the detecting not including the detection of the presence or absence of a copy mark. See page 7, line 27 through page 8, line 10. The AAPA related to recording discusses passing or stopping a stream based upon 2-bit codes and the presence or absence of a copy mark. Notably, the passing of a stream (digital data) occurs when there is: (a) a (1,0) code and the absence of a copy mark, (b) a (0,0) code, and (c) no detected additional information. As such, there is one case in which digital data is passed that requires an assessment of whether a copy mark is absent. In contrast, claim 35 requires that all combinations of the 2-bit code pursuant to which recording of the digital data is allowed to proceed, there be no assessment of whether a copy mark is also present in the digital data.

The '092 patent is directed to a method and system for transferring content information and supplemental information. The '092 patent does not remedy the deficiencies noted with respect to the AAPA. The Action notes that the '092 patent teaches the scrambling of content recorded on a writable medium. See col. 11, lines 53-56. The cited passage indicates that the encoded signal and/or the control signal may be protected by scrambling. The encoded signal apparently is the content information, watermark pattern, and a control pattern. The watermark pattern is attained by applying a one-way function to the control pattern. See col. 2, lines 25-42. Apparently, the passage cited in the Action means that the content information, watermark pattern, and control pattern can all be scrambled or only the control pattern can be scrambled. Assuming for the sake of argument only that the digital data and the additional data of the claimed invention correspond to the content information and watermark pattern of the '092 patent, the copy mark of the claimed invention is quite different from the control pattern of the '092 patent. The control mark of the '092 patent is apparently present in the encoded signal and used to generate the watermark pattern. In contrast, the copy mark of the claimed invention is generated based on one or more combinations of the additional data and then embedded into the digital data.

Based on the foregoing, it is respectfully submitted that independent claim 35 is in condition for allowance.

Independent claim 38, which is directed to video driver card for controlling the recording of digital data, is allowable for substantially the same reasons as noted with respect to independent claim 35.

Independent claim 40 is directed to recorder-player and, more specifically, to the controlling of the recording of digital data in a recorder-player. As such, it should be appreciated that claim 40 is not directed to the playback of digital data from a recording medium. Consequently, any AAPA directed to playback is not applicable to claim 40. It is respectfully submitted that claim 40 is allowable for substantially the same reasons as noted with respect to independent claim 35.

Each of claims 36, 39, and 41 is a dependent claim that depends either directly or indirectly from one of independent claims 35, 38, and 40. Consequently, each of these dependent claims is at least allowable for the reasons noted with respect to the independent claim from which it depends. However, each of these dependent claims may be allowable for additional reasons, and the applicant reserves the right to assert any such reason in the future.

Independent claim 37 is directed to a method for performing playback control of digital data that is both scrambled and embedded with additional information, and that is executed by a video card. The method comprises the steps of: (a) reading the scrambled digital data from a medium, (b) descrambling the digital data to detect the additional information embedded in the descrambled digital data, the additional information being 2-bit digital data, (c) determining the contents of the detected 2-bit digital data, (d) if the contents of the 2-bit digital data has a particular value and a copy mark is not present, adding a copy mark to the digital data, where the adding of a copy mark is not dependent upon a determination of the type of media on which the digital data has been written, and (e) allowing the playback of the descrambled digital data that includes the copy mark that has been added to the digital data.

The Action cites page 2, lines 14-46, for disclosing the adding of a copy mark. However, the only portion of the cited passage that discloses the adding of a copy mark relates to recording and not to playback. See page 2, lines 27-28. Further, the AAPA requires knowledge of the type of medium on which the digital data is written to determine whether to prohibit playback or permit playback. In contrast, the claimed invention requires the adding of a copy mark when the 2-bit data has a particular value with the adding of the copy mark being independent of the type

of media on which the digital data has been written. Further, the claimed invention allows the playback of descrambled digital data that includes the copy mark which has been added. The AAPA does not disclose such a step. The '092 patent fails to address these deficiencies.

Based on the foregoing, it is respectfully asserted that independent claim 37 is in condition for allowance.
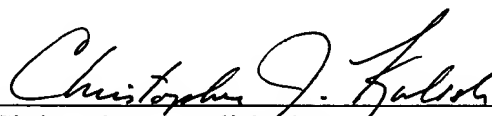

No claim related fees are believed to be due with this response. In the event any such fees are due, please debit Deposit Account 08-2623.

In the event that a petition for extension of time under 37 CFR §1.136(a) is required to have this reply considered and such a petition does not otherwise accompany this reply, please consider this a petition for an extension of time for the required number of months and authorization to debit Deposit Account 08-2623 for the required fee.

The application now appearing to be in form for allowance, reconsideration and allowance thereof is respectfully requested. If a telephone conversation will further the prosecution and/or expedite allowance, the examiner is invited to contact the undersigned attorney.

Respectfully submitted,

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